REMARKS

Claims 1-12 and 14-24 are pending, with claims 1, 10, 19, and 24 being independent. Claims 1 and 14-18 have been amended. Claim 13 has been canceled. No new matter has been added. Reconsideration and allowance of the above-referenced application are respectfully requested.

Claim Objection

Claim 18 stands objected for containing a typographical error. Claim 18 has been amended to obviate this objection. Thus, withdrawal of the claim objection is respectfully requested.

Rejections Under 35 U.S.C. §101

Claims 10-12 stand rejected under 35 U.S.C. § 101 as allegedly not being directed to statutory subject matter. Claim 10 has been amended to obviate these rejections. Amended claim 10, as a whole, is useful and accomplishes a practical application by "presenting potential problems with the current software installation" (tangible output) for use by a user in tracking and verifying software installation. Claims 11 and 12 depend from claim 10. Therefore, withdrawal of the rejections of claims 10-12 under 35 U.S.C. § 101 is respectfully requested.

Rejections Under 35 U.S.C. §102

Claims 1-6, 10, 12-15 and 24 stand rejected under 35 U.S.C. §102(e) as allegedly being unpatentable over U.S. Patent No. 6,560,776 issued to Breggin, et al. (hereinafter "Breggin"). This contention is respectfully traversed.

Breggin does not disclose each and every element of claim 1. Contrary to the Office's assertion, the cited portions of Breggin (Fig. 4; Col. 3, lines 60-63; and Col. 8, lines 24-50) merely discloses performing "an analysis of the install program before the installation" by creating an **installation database** of discrepancies, which indicate differences between the installation database and the target computer. Granted, the "installation database" of Breggin

that presents "an analysis of the install program before the installation" can be considered an **expected result** of the installation; however, the system in Breggin only identifies "exceptions" (discrepancies) because the system implicitly expects **installation stability**. Breggin simply does not contemplate any **expectation of volatility** in software installation, nor does Breggin create data representing a new expectation of stability for a given resource associated with a software installation.

The subject matter of claim 1 is clearly limited to transitioning from an explicit **expectation of volatility** for one or more resources to an explicit **expectation of stability** for the one or more resources by creating data that represents a **new expectation** that represents a transition from an expectation of volatility to an expectation of stability for future software installs. In comparison, the discrepancies identified in Breggin do not indicate "a transition from an expectation of volatility to an expectation of stability for future software installs" as recited in claim 1. Using the subject matter of claim 1, the software developer "can track what should actually be installed on a particular day in a software product's life-cycle, including components that need to be installed in other applications' directories, and quickly call attention to inadvertently introduced errors. This can be of particular value in the latter part of a software product's development life-cycle, when engineers may be struggling to meet a set product release date." (paragraph [0009] of the application as filed). Breggin does not contemplate these potential advantages because Breggin is silent on "creating data that represents a new expectation for an installation result, for one or more resources associated with a software installer, the new expectation being a transition from an expectation of volatility to an expectation of stability for future software installs" as recited in claim 1. Thus, Breggin does not teach each and every limitation of claim 1, and claim 1 should be in condition for allowance.

Breggin also does not disclose each and every element of claim 10. As discussed before, Breggin discloses identifying "exceptions" where an "exception is typically a difference between corresponding fields in the installation and installed databases or files. Examples of exceptions include 'file is missing,' 'file is different size,' ..." (col. 9, lines 55-61), and does not contemplate an **expectation of volatility** where the unchanged resources should change. Further, Breggin does not disclose identifying potential problems when resources that have not changed were supposed to be changed. Amended claim 10 makes explicit that potential problems based on the

identified resources are presented to the software developer as an alert that resources that were supposed to be changed did not change. Thus, contrary to the Office's assertion, Breggin fails to disclose "identifying, based on the comparison, resources that have not changed in their installation result from the previous software installation to the current software installation, despite **an expectation that the unchanged resources should change** from the previous software installation to the current software installation" as recited in claim 10. Therefore, Breggin does not teach each and every limitation of claim 10, and claim 10 should be in condition for allowance.

Claims 2-6 and 12-15 depend generally from claims 1 or 10, and are allowable for at least the reasons provided above.

Regarding claim 24, initially, the Office's contention that "Applicant's arguments fail to comply with 37 CFR 1.111(b)" (p. 27 of this Office Action) is respectfully traversed. Applicant's response was partly directed at the Office's contention in the previous Office Action that "[w]hile the claim meets the first prong of the three-prong analysis used to determine invocation of 35 U.S.C. 112, sixth paragraph, the claim does not meet the other prongs of the three-prong analysis, since no other specific corresponding structure or equivalents thereof are disclosed in the specification." Applicant then presented arguments pointing out the specific distinctions believed to render claim 24 patentable over Breggin by stating that "claim 24 includes features similar to independent claims 1 and 10, as well as dependent claim 5, claim 24 is patentable for similar reasons discussed above." Thus, Applicant's arguments in the previous response complied with 37 CFR 1.111(b).

Breggin also does not disclose each and every element of claim 24. As discussed before, Breggin discloses identifying "exceptions" and the reporting of these "exceptions" in Breggin are merely **observed** differences or discrepancies. These observed differences "include 'file **is** missing,' 'file **is** different size,' 'file **is** different date,'…" and are simply not "expectations that indicates which of the resources should be in flux, and which of the resources should be stable" as in claim 24. Contrary to the Office's contention, the cited portions of Breggin do not disclose "a record of installation expectations," much less "**comparing** the software trend comparison with a record of installation expectations" as recited in claim 24.

The subject matter of claim 24 can be described in reference to FIG. 2 of the application as filed. Potential advantages to the software developer using the subject matter of claim 24 "can be especially important as the product's changes slow to a stop as a release date nears. ... Because an exact attribute identity for each file that has stabilized can be provided, each file can be easily verified as installed correctly, byte-for-byte and attribute-for-attribute. Hundreds of installations can be performed and verified in the space of time it might otherwise take to verify a single combination." (paragraph [0011] of the application as filed). These potential advantages are not contemplated by Breggin because Breggin fails to disclose "means for comparing the software trend comparison with a record of installation expectations that indicates which of the resources should be in flux, and which of the resources should be stable from the previous install to the current install, with respect to the at least one attribute" as recited in claim 24.

Additionally, Breggin fails to disclose "presenting potential problems with the current software installation based on the comparison of the software trend comparison with the expectations record" as recited in claim 24. As discussed above, since Breggin does not disclose "comparison of the software trend comparison with the expectations record," there is also no disclosure of presenting potential problems **based on the comparison**. Therefore, Breggin does not teach each and every element and limitation of claim 24, and claim 24 should be in condition for allowance.

Rejections Under 35 U.S.C. § 103

Claims 7-9 and 16-18 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Breggin. This contention is respectfully traversed. A *prima facie* case of obviousness has not been established because Breggin does not teach or suggest all the elements of claims 7-9 and 16-18. For example, claims 7-9 and 16-18 depend generally from independent claims 1 and 10. As discussed above, Breggin does not teach or suggest every element and limitation of claims 1 and 10. Thus, Breggin does not teach or suggest each and every element of claims 7-9 and 16-18 at least for the reasons above, and claims 7-9 and 16-18 should be allowable.

Claims 11, 19, 20, 22 and 23 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Breggin in view of U.S. Patent No. 6,738,970 issued to Kruger et al. (hereinafter "Kruger"). This contention is respectfully traversed. Kruger does not cure the deficiencies of Breggin. A *prima facie* case of obviousness has not been established because the suggested Breggin-Kruger combination does not teach or suggest all the elements of claims 11, 19, 20, 22 and 23. For example, claim 11 depends from independent claim 10 and, as discussed above, Breggin does not teach or suggest every element and limitation of claim 10. Thus, claim 11 should be allowable.

Regarding independent claim 19, Breggin does not disclose "the install controller ... collects test results to be presented in a report comprising a baseline-update interface" because the claimed "install controller" is not the same as the "installation database" of Breggin. Even if the "installation database" of Breggin can be construed to read on "install controller," the cited portion of Breggin (Col. 9, lines 55-58) does not disclose "the install controller ...collects test results to be presented in a report comprising a baseline-update interface" because the cited portion of Breggin merely discloses graphically displaying "exceptions," which are based on "**compar[ing] the installation database** to the installed database." Thus, contrary to the Office's contention, Breggin does not disclose "the install controller ...collects test results to be presented in a report comprising a baseline-update interface" because in Breggin, the installation database does not collect test results but simply is used as a comparison for generating "exceptions."

Furthermore, Kruger does not disclose "the install controller **automatically dispatches installation** to the one or more install slave machine" as recited in claim 19. Contrary to the Office's assertion, the cited portion of Kruger (Col. 4, lines 19-27) merely discloses sending the instructions, files and program to other computer systems and does not disclose "automatically dispatches installation" because nowhere does Kruger contemplate automatically dispatching the programs. Therefore, the suggested Breggin-Kruger combination does not teach or suggest all the elements of claim 19, and claim 19 should be allowed.

Claims 20, 22, and 23 depend from independent claim 19, and these dependent claims are allowable for at least the reasons provided above.

Claim 21 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Breggin in view of Kruger, and further in view of U.S. Patent Application No. 2002/0156831 by Suorsa et al. (hereinafter "Suorsa"). This contention is respectfully traversed. Suorsa does not cure the deficiencies of Kruger over Breggin and a *prima facie* case of obviousness has not been established for this claim. Since claim 21 depends from claim 19, claim 21 is allowable for at least the reasons stated above.
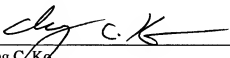
Concluding Comments

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants ask that all claims be allowed. Please apply applicable charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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